

AMENDED IN ASSEMBLY JUNE 23, 2010

AMENDED IN ASSEMBLY JUNE 10, 2010

AMENDED IN SENATE MAY 28, 2009

AMENDED IN SENATE APRIL 29, 2009

AMENDED IN SENATE APRIL 2, 2009

SENATE BILL

No. 331

Introduced by Senator Romero

(Coauthors: Senators Alquist, Cedillo, Ducheny, Hancock, and Liu)

(Coauthors: Assembly Members Arambula and Solorio)

February 25, 2009

An act to amend Sections 54440, 54441.5, 54442, 54443.1, 54444.1, and 54444.2 of the Education Code, relating to migrant education.

LEGISLATIVE COUNSEL'S DIGEST

SB 331, as amended, Romero. Migrant education.

(1) Existing law requires the State Board of Education to adopt a state master plan for services to migrant children, as defined, that includes the provision of specified services and activities.

~~This bill would require the state master plan and state services delivery plan to be developed and revised as necessary by the Superintendent of Public Instruction and the statewide parent advisory council, and would require the plan to, commencing with the next revision, amendment, or adoption of the plan after July 1, 2001, would require the Superintendent of Public Instruction, in collaboration with parents of migratory children, to develop and revise the plan to include the collection of individual and aggregate data for migrant pupils, as specified.~~

~~(2) Existing law deems a child who is identified as a “migrant child” to continue to be a migrant child for up to 5 years during which he or she~~ Under existing law, a child may be deemed a “migrant child” for a period not to exceed 5 years during which the child resides in an area where programs are provided for migrant children. Existing law requires priority to be given to programs and activities for migrant children and prohibits migrant programs from being provided solely for children who have ceased to migrate.

This bill would reduce the number of years a child ~~is~~ *may be* deemed to be a migrant child from 5 years to 3 ~~and~~ years. *The bill* would delete the provisions above regarding priority and the prohibition against programs solely for children who have ceased to migrate, *and would instead specify that priority for services shall be consistent with federal law.*

(3) Existing law requires the Superintendent of Public Instruction to establish the service regional system as the primary method for the delivery of services to migrant children and requires that regions be contiguous, with no less than 1,500, and no more than 8,000, migratory children.

The bill would delete the cap on the number of migratory children that may be served in a region.

(4) Existing law requires each operating agency that receives migrant education funds or services to establish a parent advisory council to actively solicit parent involvement in the planning, operation, and evaluation of its programs.

This bill would require interpretation to be provided at each state and regional migrant parent advisory council meeting by a person trained in interpreting and who is fully fluent in English and in the language understandable to the parents.

(5) Existing law requires the Superintendent of Public Instruction to sponsor an annual state parent advisory council conference and requires the council to prepare and submit a report to the Legislature, the State Board of Education, and the Governor regarding the status of the migrant education program.

The bill would require the report to include an evaluation of the program, a review of annual needs, a year-end assessment, policy recommendations, and the data collected regarding the program. The bill would ~~authorize the state parent advisory council to approve an individual or group to provide technical assistance needed to draft the report if the Superintendent or the department do not provide the council~~

~~with that training. The bill would require this assistance to be objective and provided free of charge~~ *require the Superintendent to provide training and technical assistance to the council on the preparation of the report.*

(6) The bill also would make technical, nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 54440 of the Education Code is amended
2 to read:

3 54440. The Legislature finds and declares all of the following:

4 (a) A significant number of children under the age of 18 whose
5 parents are migratory agricultural workers or migratory fishermen
6 reside in California for at least a part of each year. These children,
7 from among the least affluent segments of American society, tend
8 to move frequently, attend school irregularly, and suffer health
9 problems and language barriers. This results in many becoming
10 early school dropouts, poorly prepared to enter the workforce or
11 for academic success and upward social mobility.

12 (b) The problems of children of migratory agricultural parents
13 and of migratory fisherman parents are of such magnitude and
14 severity that local school districts have been unable to solve them
15 with the resources normally available. It is, therefore, necessary
16 for the state to aid local school districts through regional
17 coordinating offices and the provision of special programs of
18 educational and related services for these children.

19 SEC. 2. Section 54441.5 of the Education Code is amended to
20 read:

21 54441.5. With the concurrence of the child's parent, a child
22 who has been identified as a "migrant child" may be deemed a
23 migrant child for a period, not in excess of three years, during
24 which the child resides in an area where programs are provided
25 for migrant children. *Priority for the provision of services shall*
26 *be consistent with federal statutes and regulations governing*
27 *migrant education programs.*

28 SEC. 3. Section 54442 of the Education Code is amended to
29 read:

1 54442. The state board shall adopt a state master plan for
2 services to migrant children. ~~The state master plan also may be~~
3 ~~known as the state services delivery plan.~~ Commencing with the
4 next revision, amendment, or adoption after July 1, 2011, the
5 Superintendent, in collaboration with ~~the statewide parent advisory~~
6 ~~council as required by federal law~~ *parents of migratory children*,
7 shall develop and revise, as necessary, the ~~state services delivery~~
8 *master plan*. The plan shall include all of the following:

9 (a) Instructional activities on a regular and extended year basis.
10 These activities shall be designed to identify, assess, and provide
11 treatment for academic deficiencies of migrant children. Special
12 emphasis shall be given to oral and written communications,
13 reading, and mathematics. Small group or individual instruction
14 and tutorial services shall be provided to assist migrant children
15 to attain normal progress rates in all subject areas. All instructional
16 services shall be provided as supplements to regular programs of
17 instruction provided by the public schools for all children.

18 (b) Health and welfare services. These services shall be designed
19 to identify, assess, and provide treatment for conditions that
20 interfere with the education and learning of migrant children,
21 including dental, emotional, or environmental conditions. To the
22 extent possible, existing community resources will be utilized to
23 provide these services.

24 (c) Preservice and in-service education of professional and
25 nonprofessional personnel. This education shall be planned to
26 prepare school administrators, teachers, aides, and other personnel
27 to meet the special needs of migrant children.

28 (d) Supportive services including transportation, family liaison,
29 and other services necessary to the success of the programs.

30 (e) Child development activities including, but not limited to,
31 social, sensorimotor, conceptual and language development, and
32 perceptual discrimination activities for migrant infants and
33 prekindergarten children too young to participate in instructional
34 services normally provided by the public schools.

35 (f) The active involvement of parents, teachers, and community
36 representatives in the local implementation of migrant education
37 programs.

38 (g) Collection through the California Longitudinal Pupil
39 Achievement Data System and the Migrant Student Database of

1 the following individual and aggregate data regarding migrant
2 children:

- 3 (1) Eligible migrant children.
- 4 (2) Preschool participation in migrant education funded
5 programs.
- 6 (3) Enrollment in kindergarten and grades 1 to 12, inclusive.
- 7 (4) Achievement based on the California Standards Tests, *the*
8 *English language development test*, and the high school exit
9 examination *adopted pursuant to Section 60850*.
- 10 (5) Enrollment in and completion of courses that satisfy the
11 subject requirements for admission to the California State
12 University and the University of California.
- 13 (6) Suspensions and expulsions.
- 14 (7) Dropout rates.
- 15 (8) Graduation and completion of the high school exit
16 examination.
- 17 (9) Retention in grade level.
- 18 (10) Designation and redesignation of English learners.
- 19 (11) Completion of career technical education courses.
- 20 (12) Distribution of teachers based on highly qualified status
21 and years of experience in education.

22 (h) Individual and aggregate enrollment data also shall include
23 separate data concerning the number of migrant pupils enrolled in
24 alternative education programs including, but not limited to,
25 juvenile court schools, county community schools, community
26 day schools, continuation high schools, and independent studies.

27 SEC. 4. Section 54443.1 of the Education Code is amended to
28 read:

29 54443.1. Migrant education programs shall include all of the
30 following:

31 (a) An individual assessment of the educational and relevant
32 health needs of each participating pupil within 30 days of
33 enrollment. This assessment shall include assessments concurrently
34 provided pursuant to compensatory education,
35 bilingual-crosscultural education, school improvement programs,
36 and other programs serving the pupil.

37 (b) A general needs assessment developed in compliance with
38 federal requirements summarizing the needs of the population to
39 be served.

(c) A comprehensive program to meet the educational, health, and related needs of participating pupils which is supplemental to the program the operating agency is otherwise required to provide. The program shall include, but need not be limited to, the following:

- (1) Academic instruction.
- (2) Remedial and compensatory instruction.
- (3) Bilingual and crosscultural instruction.
- (4) Career technical instruction.
- (5) Counseling and career education services.
- (6) Preschool services in accordance with Section 54443.
- (7) Other educational services that are not available in sufficient quantity or quality to eligible migratory children.
- (8) The acquisition of instructional materials and equipment necessary to adequately provide the appropriate services.
- (9) Other related services to meet the special needs of eligible migratory children which are necessary to enable these children to effectively participate in instructional services.
- (10) The coordination and teaming of existing resources serving migrant pupils, such as bilingual-crosscultural education, health screening, and compensatory education.

(d) A brief individual learning plan listing the services to be provided to each pupil shall be provided in writing or at a parent conference to the parent or guardian of each participating pupil, annually and each time the pupil moves to a new district.

(e) Staffing and staff development plans and practices to meet the needs of pupils and implement the program.

(f) Parent and community involvement as specified in Section 54444.2.

(g) Evaluations which shall include annual pupil progress and overall program effectiveness and quality control reports.

(h) School districts and other education agencies shall be eligible to apply for funding to serve migrant pupils upon application to their respective region, or, if they meet the criteria established in subdivision (b) of Section 54444.1, to the department. Operating agencies shall include in their application a description of how the entities will coordinate the planning, budgeting, and operation of the migrant education programs with the planning, budgeting, and operation of other federal and state education programs addressing the needs of the same or similar pupils of the operating agency.

1 The description shall include time lines and cover services provided
2 through school improvement, nonmigrant Title I, state
3 compensatory and limited- and non-English proficient, Title VII,
4 and other funds. If the application meets state and federal
5 requirements, negotiations for an appropriate service agreement
6 shall begin involving the parties listed in subdivision (a) or (b) of
7 Section 54444.1.

8 SEC. 5. Section 54444.1 of the Education Code is amended to
9 read:

10 54444.1. (a) In implementing the state master plan for services
11 to migrant children, the Superintendent shall establish the service
12 regional system as the primary method for the delivery of services
13 to migrant children. The Superintendent shall review and approve
14 plans for the establishment of service regions and shall incorporate
15 the following criteria in the approval of regional plans:

16 (1) The boundaries of regions shall include all geographic areas
17 with migrant and seasonal agricultural workers and fishermen.

18 (2) Regional service centers shall be located in areas with high
19 concentrations of migrant and seasonal agricultural workers and
20 fishermen. Regional headquarters shall be located as follows:

21 (A) In areas requiring large numbers of these workers for a
22 period of at least two consecutive months during each year.

23 (B) In areas which normally contract for migrant and seasonal
24 agricultural workers with families rather than single adults.

25 (C) In areas where migrant and seasonal agricultural workers
26 are involved in the transition from hand labor to mechanization.

27 (3) Regions shall be located in each geographic area of the state,
28 except areas within the boundaries of directly funded districts.

29 (4) Except areas within the boundaries of directly funded
30 districts, regions shall be contiguous to one another and should
31 have no less than 1,500 migratory children. In no event shall a
32 county be split among two separate regions in order to meet the
33 requirements of this paragraph.

34 (5) Regions shall be organized so as to provide quality services
35 to all affected parties and maintain fiscal procedures in conformity
36 with requirements adopted by the department.

37 (6) The boundaries of regions shall be drawn in a manner that
38 avoids excessive commuting by personnel or by participants in
39 the programs, not to exceed 100 miles from the schoolsite to the
40 operating agency.

(7) If a proposed region cannot meet the criteria established in paragraph (4) or (6), it may request that the criteria be waived by the state board. The waiver request shall be based upon a study, conducted by the entities, including their respective parent advisory councils, comprising the proposed region, that explains why the waiver is required and that describes likely outcomes if the waiver is not granted.

(b) An agency meeting the criteria set forth in this subdivision and subdivision (f) of Section 54441 may apply to the department for designation as a region. The application shall be in a format with sufficient information and at times designated by the Superintendent. The application shall include documentation of active participation, review and comment by the appropriate parent advisory councils, and signatures by parent advisory council chairpersons that the review and comment has taken place, and shall further include documentation that the agencies and parent representative comprising the proposed region have met as a group prior to submission of the application and have agreed upon the formation of, and participation in, the region and a general delineation of the services which will be provided in the region.

Directly funded districts shall be invited by the regions to participate in regional activities and meetings. Staff and parent advisory council members in the districts shall also be invited to regional inservice activities and conferences.

(c) The department may directly fund local educational agencies, in whole or in part, to provide services to eligible migrant children if it is cost effective to do so; if the applicant agency serves not less than 1,500, nor more than 8,000, currently migratory children; has sufficient programmatic and fiscal resources to deliver an effective migrant education program; is in compliance with the federal and state requirements regarding migrant education programs; maintains an ongoing and functional parent advisory council which has voted on a biennial basis to approve the participation in the directly funded program, including the approval of a majority of the members who are the parents of migrant children; and maintains fiscal procedures in conformity with the requirements adopted by the department. All districts which are directly funded on January 1, 1982, may continue to be funded directly, provided that the districts comply with the criteria prescribed by this subdivision, except for the size criterion.

1 (d) The responsibilities of the various parties involved in the
2 delivery of services to migrant children shall be set forth in a
3 service agreement. A service agreement shall be a legally binding
4 contract signed by the duly constituted authorities at the state,
5 county, district, or private or public nonprofit agencies, or a
6 combination thereof. In the regional delivery system, there shall
7 be two parties to every service agreement; the region and the
8 district or other operating agencies in which the eligible migrant
9 pupils are enrolled. When a district or agency is funded directly
10 by the state, the parties to the service agreement shall include the
11 department and the district or operating agency in which the
12 eligible migrant pupils are enrolled. The basic responsibilities of
13 these three parties shall be as specified in Section 54444.4.

14 The parties, whether regional or directly funded, shall take the
15 necessary steps to ensure the effective involvement of the migrant
16 parent advisory committee for that district or agency.
17 Representatives of the migrant parent advisory committee shall
18 have the right to be present and participate in all deliberations
19 between the parties regarding the service agreement or any
20 subsequent changes thereto. The service agreement shall include
21 a signed statement from the officers of the migrant parent advisory
22 committee signifying that the participation has occurred.

23 (e) The Superintendent shall develop an annual operating
24 calendar for regions and directly funded districts, including dates
25 for the submission and approval of applications and service
26 agreements. Any changes in regional boundaries for the subsequent
27 fiscal year shall be made and approved by December 31 of the
28 current year. Any changes in funding allocations for regions shall
29 be made by December 31 of the current year or immediately after
30 notification of a federal grant award.

31 (f) The Superintendent shall preserve the supplemental nature
32 of the migrant education program. The program shall be maintained
33 outside the supervision or above the administrative level of the
34 consolidated application programs. The Superintendent shall not
35 incorporate the migrant education program into the consolidated
36 application process, except as provided below:

37 (1) Directly funded districts may apply for migrant education
38 funds as part of their consolidated application provided the district
39 parent advisory council on migrant education approves the
40 inclusion.

1 (2) A copy of the district's annual application for migrant
2 education funds as required by Section 54443.1 shall be attached
3 to the district's annual consolidated application.

4 SEC. 6. Section 54444.2 of the Education Code is amended to
5 read:

6 54444.2. (a) The Superintendent of Public Instruction shall
7 take the steps necessary to ensure effective parental involvement
8 throughout the state migrant education program, which shall
9 include, but need not be limited to, the following:

10 (1) The Superintendent shall adopt rules and regulations
11 requiring each operating agency receiving migrant education funds
12 or services to actively solicit parental involvement in the planning,
13 operation, and evaluation of its programs through the establishment
14 of, and consultation with, a parent advisory council.

15 (A) The membership of each parent advisory council shall be
16 comprised of members who are knowledgeable of the needs of
17 migrant children and shall be elected by the parents of migrant
18 children enrolled in the operating agency's programs. The
19 composition of the council shall be determined by the parents at
20 a general meeting to which all parents of pupils enrolled in the
21 migrant program shall be invited. Parents shall be informed, in a
22 language they understand, that the parents have the sole authority
23 to decide on the composition of the council. All parent candidates
24 for the council shall be nominated by parents; nonparent candidates
25 shall be nominated by the groups they represent: teachers by
26 teachers, administrators by administrators, other school personnel
27 by other school personnel, and pupils by pupils. All other
28 community candidates shall be nominated by the parents. Each
29 parent advisory council shall hold meetings on a regular basis
30 during the operation of the regular program, but not less than six
31 times during the year.

32 (B) At least two-thirds of the members of each parent advisory
33 council shall be the parents of migrant children. Each parent
34 advisory council shall have the responsibilities listed in subdivision
35 (a) of Section 54444.4.

36 (2) The Superintendent shall establish a statewide parent
37 advisory council which shall participate in the planning, operation,
38 and evaluation of the state migrant education program. The
39 membership of the statewide parent advisory council shall be
40 comprised of members who are knowledgeable of the needs of

1 migrant children and shall be nominated and elected by the parents
2 of migrant children enrolled in the operating agencies. At least
3 two-thirds of the members of the state parent advisory council
4 shall be the parents of migrant children. The state council shall
5 meet a minimum of six times a calendar year to provide input on
6 issues relating to the operation of the program. Special meetings
7 may be called at the discretion of the state director.

8 (3) (A) The Superintendent also shall sponsor an annual state
9 parent advisory council conference. The conference shall be
10 scheduled during the spring of every year.

11 (B) Within 120 days from the conclusion of the conference, the
12 state parent advisory council shall prepare and submit a report to
13 the Legislature, state board, the Superintendent, and the Governor
14 regarding the status of the migrant education program.

15 (C) The report shall include an evaluation of the migrant
16 education program, as required pursuant to paragraph (2) of
17 subdivision (a), a review of annual needs and a year-end
18 assessment, as required pursuant to paragraph (2) of subdivision
19 (a) of Section 54444.4, policy recommendations, and the most
20 recent data collected pursuant to subdivision (g) of Section 54442
21 to the extent that the data is available.

22 ~~(D) If the Superintendent or the department do not provide the~~
23 ~~council with training on the preparation of the report, the state~~
24 ~~parent advisory council may approve, by majority vote, an~~
25 ~~individual or group to provide the technical assistance needed to~~
26 ~~draft the report~~

27 *(D) The Superintendent shall provide the council with training*
28 *and technical assistance on the preparation of the report. Training*
29 *and technical assistance shall be provided prior to, during, or*
30 *after the annual parent conference but no later than 30 days after*
31 *the annual parent conference..* Technical assistance or training for
32 the purpose of drafting the report that is provided by the
33 Superintendent ~~or an outside source~~ shall be objective and provided
34 free of charge. It is the sole responsibility of the state parent
35 advisory council to determine the contents of the report.

36 (4) The Superintendent and each operating agency shall furnish,
37 without charge, to the statewide and operating agency parent
38 advisory councils and, upon request, to each member, a copy of
39 all applicable state and federal migrant education statutes, rules
40 and regulations, and guidelines. In addition, the Superintendent

1 and each operating agency shall furnish, without charge, to the
2 statewide and operating agency parent advisory councils and, upon
3 request, to each member, copies of all applicable state and federal
4 audits, monitoring reports, and evaluations.

5 (5) The Superintendent and each operating agency shall establish
6 and implement training programs for members of the statewide
7 and operating agency parent advisory councils to enable them to
8 carry out their responsibilities. Each training program shall be
9 developed in consultation with the parent advisory councils and
10 shall include appropriate training materials in a language
11 understandable to each member. Costs incurred in providing
12 training under this paragraph, including federally authorized
13 expenses associated with the attendance of members at training
14 sessions, shall be funded, to the extent that funds are available, by
15 federal funds allocated to the state, based upon the educational
16 and related health needs of migratory children defined in
17 subdivisions (a) and (b) of Section 54441, and may be supported
18 by funds from the state migrant education program.

19 (6) Interpretation shall be provided at each state and regional
20 migrant parent advisory council meeting by an individual who has
21 received training in interpreting and who is fully fluent in English
22 and in the language understandable to the parents.

23 (b) Each operating agency which provides services on a
24 statewide basis shall be exempt from the requirement that it create
25 its own parent advisory council, but shall consult the statewide
26 parent advisory council in the planning, operation, and evaluation
27 of its programs.